

JPA / ECS File No.: 05-064  
AG Contract No.: KR05-1274TRN  
Project No.: HES-CHV-0 ( 762 ) A  
Project: Replacing Signs & Posts  
Section: Various Locations  
TRACS No.: SH429 01C  
Budget Source Item No.:

## INTERGOVERNMENTAL AGREEMENT

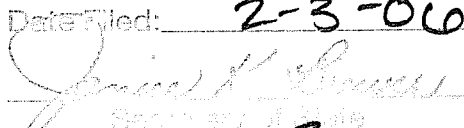
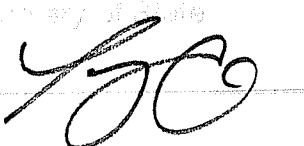
BETWEEN  
THE STATE OF ARIZONA  
AND  
TOWN OF CHINO VALLEY

**THIS AGREEMENT** is entered into this date February 3, 2006, pursuant to the Arizona Revised Statutes § 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the TOWN OF CHINO VALLEY, acting by and through its MAYOR and TOWN COUNCIL (the "Town").

### I. RECITALS

1. The State is empowered by Arizona Revised Statutes § 28-401 to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State.
2. The Town is empowered by Arizona Revised Statutes § 48-572 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the Town.
3. The interest of the State for this Project is in the acquisition of Federal Funds for the use and benefit of the Town and is authorized as the designed agent. Funds expended for the Project, are authorized by reason of Federal Law and Regulations.
4. Congress has authorized appropriations for, but not limited to, the design of streets and primary, feeder and farm-to-market roads; the replacement of bridges; the elimination of roadside obstacles; and the application of pavement markings.
5. The Project lies within the boundary of the Town and has been selected by the Town; the field survey of the Project has been completed; and the plans, estimates and specifications have been prepared and, as required, submitted to the State and Federal Highway Administration (FHWA) for their approval.
6. The Town, in order to obtain Federal Funds for the Project, is willing to provide Town funds to match Federal Funds in the ratio required or as finally fixed and determined by the Town, State and FHWA, including actual construction engineering (CE) and administration costs.

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NO. 27992  
Filed with the Secretary of State  
Date Filed: 2-3-06  
  
Secretary of State  
By: 

7. The State and the Town desire to participate in the procurement, design and installation of signs for safety improvements, including the replacement of signs and signposts at various locations selected by the Town and within the Town, hereinafter referred to as the "Project." The estimated costs of the Project are as follows:

**TRACS No.: SH429 01C / 01D**

Estimated Federal Aid Funds @ 94.3%	\$200,000.00
Estimated Town Funds @ 5.7%	\$ 12,089.00
ADOT PE Review Cost	<u>\$ 5,000.00</u>
<b>Total Estimated Cost of the Project</b>	<b>\$217,089.00</b>

**THEREFORE**, in consideration of the mutual agreements expressed herein, it is agreed as follows:

**II. SCOPE OF WORK**

1. The State shall:

- a. Complete under the State's Procurement Process the purchase and installation of signs and signposts for the Project using both Federal Aid and City funds as identified in Section 1.7.
- b. Agree to be the Town's authorized agent for the Project and submit a program containing the aforementioned Project to FHWA with the recommendation that it be approved for construction and funding. Should costs exceed the maximum Federal Funds available, it is understood and agreed that the Town will be responsible for any overage.
- c. Approve the Project if such project construction funds are available by the FHWA for construction of the Project.
- d. Upon execution of this Agreement, and within thirty-days (30) of such execution, invoice the Town an estimated amount of \$17,089.00 for its matching participation amount of the Project.
- e. Not be obligated to maintain said Project should the Town fail to budge or provide for proper and perpetual maintenance.

2. The Town shall:

- a. Upon execution of this Agreement, and upon receipt of an invoice from the State, remit to the State an estimated amount of \$17,089.00, for the Town's matching participation amount as identified in Section 1.7.
- b. If such Project is approved for construction by FHWA and the funds are available for construction, hereby designate the State as authorized agent for the Town. Should costs exceed the maximum federal funds available, it is understood and agreed that the Town will be responsible for any overage.
- c. Agree the cost of the analysis and the Project is to be borne by FHWA and the Town, each in the proportion prescribed and determined by FHWA.
- d. Prior to the solicitation of bids, agree to deposit funds with the State in an amount equal to the difference between the total cost of the Project and the amount of federal aid (capped) received.
- e. Upon completion of the Project, be responsible to provide for, at its own cost and as an annual item in its budget, proper and perpetual maintenance to the Project.

f. Should unforeseen conditions or circumstances increase the cost of the Project such that a change in the extent or scope of the Project becomes necessary, be obligated to incur and will pay for said increased costs.

### **III. MISCELLANEOUS PROVISIONS**

1. This terms, conditions and provisions of this Agreement shall remain in force and effect until completion of said project and related deposits or reimbursement, except any provisions for maintenance by the Town shall be perpetual, unless assumed by another competent entity. Further, this Agreement may be canceled at any time prior to the award of the project construction contract, upon thirty-days (30) written notice to the other party. It is understood and agreed that, in the event the Town terminates this Agreement, the State shall in no way be obligated to maintain said project.

2. The State assumes no financial obligation or liability under this Agreement, or for any resulting construction project. The Town assumes full responsibility for the design, plans, specifications, reports, the engineering in connection therewith and the construction of the improvements contemplated, cost over-runs and construction claims. It is understood and agreed that any damages arising from carrying out, in any respect, the terms of this Agreement or any modification thereof, shall be solely the liability of the Town and that to the extent permitted by law, the Town hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, misrepresentation, directives, instruction or event arising out of the performance or nonperformance of any provisions of this Agreement by the State, any of its departments, agencies, officers and employees the Town, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, and expenses of litigation and attorneys' fees.

3. The cost of construction and construction engineering work covered by this Agreement is to be borne by FHWA and the Town, each in the proportion prescribed or as fixed and determined by FHWA as stipulated in this Agreement. Therefore, the Town agrees to furnish and provide the difference between the total cost of the work provided for in this Agreement and the amount of Federal Aid received.

4. This Agreement shall become effective upon filing with the Secretary of State.

5. This Agreement may be cancelled in accordance with Arizona Revised Statutes § 38-511.

6. The provisions of Arizona Revised Statutes § 35-214 are applicable to this Agreement.

7. In the event of any controversy, which may arise out of this Agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes § 12-1518.

8. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail, addressed as follows:

Arizona Department of Transportation  
Joint Project Administration  
205 S. 17<sup>th</sup> Avenue, Mail Drop 616E  
Phoenix, Arizona 85007  
(602) 712-7525  
(602) 712-7424 Fax

Town of Chino Valley  
Attn: Larry Wright  
1020 West Palomino Road  
Chino Valley, Arizona 86323  
(928) 636-7140  
(928) 636-2144 Fax

9. This Agreement is subject to all applicable provisions of the Americans with Disability Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable Federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination".

10. Non-Availability of Funds: Every payment obligation of the State and Town under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligations. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the State and Town at the end of the period for which the funds are available. No liability shall accrue to the State or the Town in the event this provision is exercised as a result of termination under this paragraph.

11. In accordance with Arizona Revised Statutes § 11-952 (D) attached hereto and incorporated herein is the written determination of each party's legal counsel and that the parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form.

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IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.


TOWN OF CHINO VALLEY

By   
KAREN FANN  
Mayor

STATE OF ARIZONA  
Department of Transportation

By   
SUSAN TELLEZ  
Contract Administrator

ATTEST:

By   
JAMI LEWIS  
Clerk

ATTORNEY APPROVAL FORM FOR THE TOWN OF CHINO VALLEY

I have reviewed the above referenced Intergovernmental Agreement between the State of Arizona, acting by and through its DEPARTMENT OF TRANSPORTATION, and the TOWN, an Agreement among public agencies which, has been reviewed pursuant to A.R.S. § 11-951 through § 11-954 and declare this Agreement to be in proper form and within the powers and authority granted to the TOWN under the laws of the State of Arizona.

No opinion is expressed as to the authority of the State to enter into this Agreement.

DATED this 12th day of January, 2006.

Musgrove Drutz & Kack PC  
By Cathy L. Knapp  
Town Attorney

**ACTION TAKEN BY  
THE CHINO VALLEY TOWN COUNCIL  
ON  
JANUARY 12, 2006  
6:00 P.M.**

*The Chino Valley Town Council held a Regular Meeting open to the public on **Thursday, January 12, 2006 at 6:00 p.m.** in the Chino Valley Council Chambers located at 1020 W. Palomino Road, Chino Valley, Arizona.*

**Action Taken** during the meeting was as follows:

**2) Introductions, Presentations and Proclamations.**

- 2a)** Chino Valley Historical Moment, presented by Chino Valley **Historical Society** President Audrey Fluhart.

*Mrs. Fluhart reported that the Society was starting their third year and had upcoming plans for a tea, membership drive, and securing donations to stabilize two antique phone booths. The Historical Moment concerned the history of the old rock building on the highway, which was the LDS Chapel built in 1924, made from native blue granite quarried from Williamson Valley, and whose basement served as a social hall for the entire community.*

- 2b)** Acknowledgment and presentation of Appreciation Award and perpetual award plate to Sharon Garda, **Employee/Volunteer of the Month** for December 2005.

*Town Clerk Jami Lewis presented the December Employee/Volunteer of the Month Award to Sharon Garda, a temporary employee since 2001, who had served in six departments, administered several large projects, assisted with several projects on a volunteer basis, and was also an active volunteer in the community.*

- 2c)** Introduction of Ab Jackson, new Chino Valley Area **Chamber of Commerce** Director.

*Mr. Jackson spoke about his vision for the Chamber, which was to focus on business in the community. He invited council members to Chamber mixers and luncheons, and related that he received positive comments from the Governor about Chino Valley having the largest representation among local entities at the Governor's recent State-of-the-State Address.*

- 2d) Recognition of a **donation** of \$25,000 by the Yavapai Prescott Indian Tribe to the Town Of Chino Valley to be used for Phase III of the Community Center Park rehabilitation.

*Tribe President Ernie Jones spoke about the history of this donation, which originated from a statute requiring the Tribe to donate a percentage of their gaming earnings to certain local municipal projects.*

3) **Call to the Public.**

*No one from the public spoke.*

4) **Mayor/Council/Manager Report.**

*Town Manager Bill Pupo reported that copies of proposed revisions to the Utilities chapter of the Town Code had been forwarded to staff and Council for review and comment. Interested parties may obtain a copy from the Town Clerk's Office.*

*Vice-Mayor Joel Baker requested that staff place on a future agenda an item to prohibit demonstrations of any kind at memorial services for U.S. servicemen.*

*Marcia Jacobsen, Director of Yavapai County Health Services, presented comprehensive information on emergency planning for an influenza pandemic. She spoke about the history of pandemics, flu statistics, possible local repercussions from a world-wide pandemic, and business and personal preparation. She encouraged citizens to get a flu shot, as new vaccines would be manufactured in amounts based on recent demand. She invited interested parties to an area-wide planning meeting on March 22, at 1:00 p.m. at the County Mackin Building. Citizens could learn more at [www.pandemicflu.gov](http://www.pandemicflu.gov).*

**Consent Agenda**

- \*5) Accept October 13, 2005 Regular Council Meeting **minutes**.
- \*6) Accept October 27, 2005 Regular Council Meeting **minutes**.
- \*7) Adopt **Ordinance No. 06-637**, amending Chino Valley **Town Code** Chapter 3A "Procurement," Article 3A-3 "Council Approval, When Required" and Article 3A-6 "Lowest Responsible Bidder."

- \*8) Approve hiring a consultant or funding a temporary position to review and update current business licensing forms and database, particularly related to **local business workforce**, number, and size, and to contact businesses regarding retention and growth. Consultant will be paid \$50 per hour, with a total not to exceed \$25,000 for the remainder of the current fiscal year. Funds to come from non-departmental discretionary fund.
- \*9) Authorize the Town to enter into an **intergovernmental agreement** with the Arizona Department of Transportation (**ADOT**) for FHWA HES (Federal Highway Administration Hazard Elimination System) grant funds in the amount of \$217,089 to replace traffic signs, street signs, and sign posts, with the Town's share to be \$17,089. Funds to come from Public Works grants expenditures line item.
- \*10) Approve Professional Services Agreement with **Ninyo and Moore**, Geotechnical Consultants, Inc., for geotechnical and materials testing for the Community Center Phase II project, in the amount of \$13,536.00. Funds to come from existing capital improvements line item.
- \*10.5) Approve Memorandum Of understanding (**MOU**) between the **Yavapai-Prescott Indian Tribe** and the Town Of Chino Valley, for the Tribe's donation of \$25,000 to be used for Phase III of the Community Center Rehabilitation Project.

*Accepted Consent Agenda items 5 through 10.5 as presented, and recognized Project Engineer Larry Wright for 2.5 years of diligence in securing the FHWA HES grant (item 9).*

### **Action Items**

- 11) Adopt **Ordinance No. 06-632** to **rezone** Assessors Parcel Number 306-29-041C from "AR-5" (Agricultural/ Residential 5 Acre Minimum) to "SR-1" (Single Family Residential 1 Acre Minimum). Said property is located at 740 W. Road 2 South, approximately ¼ mile west of Highway 89, and consists of approximately 4.81 acres. Applicants: John L. and Calette M. Jenkins.

*Adopted Ordinance No. 06-632 to rezone APN 306-29-041C from "AR-5" to "SR-1" with the findings and stipulations as recommended by staff.*

- 12) Adopt **Ordinance No. 05-633** to **rezone** Assessors Parcel Number 306-05-080L from "AR-5" (Agricultural/ Residential 5 Acre Minimum) to "SR-2" (Single Family Residential 2 Acre Minimum). Said property is located at 1626 W. Road 4½ North, approximately 550 feet west of Lucas Lane, and consists of approximately 7.11 acres. Applicant: Todd and Zila George.

*Adopted Ordinance No. 06-633 to rezone APN 306-05-080L from "AR-5" to "SR-2" with the findings and stipulations as recommended by staff.*



- 13) Adopt **Ordinance No. 06-634** to **rezone** Assessors Parcel Number 306-29-017 from "SR-2.5" (Single Family Residential 2½ Acre Minimum) to "SR-1" (Single Family Residential 1 Acre Minimum). Said property is located at 567 W. Center Street, approximately 825 feet west of Highway 89, and consists of approximately 3.25 acres. Applicants: David M. and Kelly L. O'Brien.

*Adopted Ordinance No. 06-634 to rezone APN 306-29-017 from "SR-2.5" to "SR-1" with the findings and stipulations as recommended by staff.*

- 14) Adopt **Ordinance No. 06-635** to **rezone** Assessors Parcel Number 306-34-005F from "AR-5" (Agricultural/Residential 5 Acre Minimum) to "SR-1" (Single Family Residential 1 Acre Minimum). Said property is located at 1065 E. Road 3 South, approximately 225 feet east of S. Road 1 East, and consists of approximately 7.67 acres. Said property also has approximately 870 feet of frontage along Road 1 East, beginning approximately 200 feet south of Road 3 South. Applicant: Eugene D. Higgins.

*Adopted Ordinance No. 06-635 to rezone APN 306-34-005F from "AR-5" to "SR-1" with the findings and stipulations as recommended by staff.*

- 15) Adopt **Ordinance No. 06-636** to **rezone** Assessors Parcel Number 306-04-011A from "AR-5" (Agricultural/Residential 5 Acre Minimum) to "CH" (Heavy Commercial). Said property is located at 848 E. Road 4 North, approximately 665 feet east of N. Highway 89, and consists of approximately 18.18 acres. Applicant: James M. Fletcher.

*Adopted Ordinance No. 06-636 to rezone APN 306-04-011A from "AR-5" to "CH" with the findings and stipulations as recommended by staff.*

- 16a) Council may vote to convene into **executive session** pursuant to A.R.S. § 38-431.03(A)(3) to obtain legal advice and to consider Council's position and instruct its attorneys regarding the Council's position with respect to negotiations for building space needs and current leases of Town property.

*Convened into executive session pursuant to A.R.S. § 38-431.03(A)(3).*

- 16b) Action regarding negotiations for **building space needs** and current leases of Town property.

*Took no action.*

- 17a) Council may vote to hold an **executive session** pursuant to A.R.S. § 38-431.03(A)(3) and (4) to obtain legal advice from its attorneys, and to consider its position and instruct its attorneys regarding water contracts that are the subject of current or pending negotiations.

*Convened into executive session pursuant to A.R.S. § 38-431.03(A)(3) and (4).*

- 17b) Adopt **Resolution No. 06-772**, authorizing the Mayor, town staff and the Town's attorneys to negotiate and execute a "Final Agreement For Underground Storage And Recovery Of Effluent For Assured Water Supply Purposes Related To Highlands Ranch" in a form consistent with Attachment A to Resolution No. 06-772.

*Adopted Resolution No. 06-772, authorizing the Mayor, town staff and the Town's attorneys to negotiate and execute an agreement consistent with a form that was attached to the resolution.*

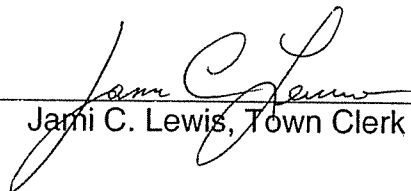
- 17c) Action regarding **water contracts** that are the subject of current or pending negotiations.


*Took no action.*

18) **ADJOURNMENT.**

Dated this 13<sup>th</sup> day of January, 2006.

By: \_\_\_\_\_

  
Jami C. Lewis, Town Clerk

<p>TERRY GODDARD Attorney General</p>	<p> <b>OFFICE OF THE ATTORNEY GENERAL</b> STATE OF ARIZONA</p>	<p>CIVIL DIVISION TRANSPORTATION SECTION Writer's Direct Line: 602.542.8855 Facsimile: 602.542.3646 E-mail: Susan.Davis@azag.gov</p>
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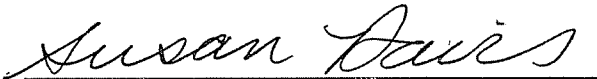
**INTERGOVERNMENTAL AGREEMENT**  
**DETERMINATION**

A.G. Contract No. KR05-1274TRN (**JPA 05-064**), an Agreement between public agencies, i.e., The State of Arizona and Town of Chino Valley, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED: January 24, 2006

TERRY GODDARD  
Attorney General

  
SUSAN E. DAVIS  
Assistant Attorney General  
Transportation Section

SED:mjf:943947  
Attachment